IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	Confirmation No.: 2233
Yongwei CAO *et al.*	Art Unit: 1634
Appln. No.: 09/474,435	Examiner: Katherine D. Salmon
Filed: December 28, 1999	Atty. Docket: 16517.044

For: *Arabidopsis Thaliana* Genome Sequence and Uses Thereof

Response to Restriction Requirement

Mail Stop Amendment
Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed May 1, 2006, Applicants submit the following.

The application presently contains claims 1-57. In the Office Action dated May 1, 2006, the Examiner required restriction to one of the following inventions under 35 U.S.C. § 121:

> Group I: Claims 1-17, 19-21 and 24-52, drawn to a first nucleic acid molecule, a second nucleic acid molecule, a transformed cell comprising a promoter region, a collection of non-identical oligonucleotides, and a primer pair, classified in class 536, subclass 23.1, class 435, subclass 419, class 425, subclass 287.2, and class 536, subclass 24.3, respectively.
>
> Group II: Claim 18, drawn to a polypeptide, classified in class 530, subclass 300.
>
> Group III: Claims 22-23, drawn to a computer readable medium, classified in class 711, subclass 100.
>
> Group IV: Claims 53-57, drawn to a method for determining gene expression comprising collecting mRNA, producing labeled nucleic acid molecule, and contacting labeled nucleic acid molecule to a collection of nucleic acid molecules, classified in class 435, subclass 6.

Moreover, the Office states that "each group named above is subject to further restriction." Office Action at page 6. The Office requires further election of a single nucleic acid sequence as

identified by the examiner in the Office Action. *Id.* Applicants respectfully traverse the restriction requirement and the single sequence requirement and provisionally elect the subject matter of group I, presented in claims 1-17, 19-21 and 24-52, drawn to a first nucleic acid molecule, a second nucleic acid molecule, a transformed cell comprising a promoter region, a collection of non-identical oligonucleotides, and a primer pair and further elect the single nucleic acid sequence of SEQ ID NO: 5272 for further prosecution. However, Applicants submit that the Patent Office has not proven that the search and examination of the entire application would impose an undue burden. Applicants submit that the complete examination would be handled most expeditiously by treating all of the pending claims as a single entity. As MPEP 803 directs, "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

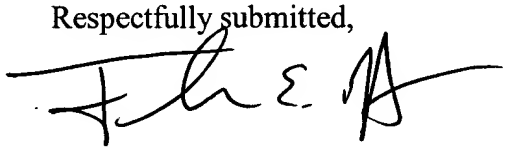
No serious burden is created for the Examiner by running a simultaneous computerized search of the nucleic acid molecules of Group I and the polypeptides of Group II. The single search may be run in conjunction with databases such as those available at http://www.ncbi.nlm.nih. A single search for a particular nucleotide sequence and its translation product, for example, would automatically yield results from Groups I and II without any undue burden on the Examiner.

Applicants submit that restriction to a single sequence is improper and Applicants believe no serious burden would result by the search and examination of all of the sequences contained in the claims. Applicants disagree that each nucleotide sequence in the application is necessarily a

patentably distinct species, but provisionally elect the species of nucleic acid molecules represented by SEQ ID NO: 5272 for further prosecution in Group 1.

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (202) 942-5085.

Respectfully submitted,



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